

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EVAN HERBERT APPEL, D.C.,

Plaintiff,

-against-

SECRETARY OF HEALTH AND HUMAN
SERVICES, Council Docket No. M-12-2123,
ALJ Appeal No. 1-924995185,

Defendant.
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FEUERSTEIN, District Judge:

ORDER

12-CV-5773(SJF)

FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y

★ JAN 22 2013 ★

LONG ISLAND OFFICE

On November 20, 2012, pro se plaintiff Evan Herbert Appel ("plaintiff") filed a complaint in this Court against the Secretary of Health and Human Services ("defendant") seeking review of the final decision of the Medicare Appeals Council denying Medicare coverage for chiropractic services furnished by plaintiff to a beneficiary between March 2011 and September 2011 and finding plaintiff liable for the non-covered costs pursuant to, *inter alia*, Section 1869(b) of the Social Security Act, 42 U.S.C. § 1395ff(b), accompanied by an application to proceed in forma pauperis. For the reasons set forth below, the application to proceed in forma pauperis is denied.

To qualify for in forma pauperis status, "an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs [inherent in litigation] and still be able to provide himself and dependents with the necessities of life." Adkins v. E.I. Du Pont De Nemours & Co., Inc., 335 U.S. 331, 339, 69 S. Ct. 85, 93 L. Ed. 43 (1948) (internal quotation marks and citations omitted). Plaintiff's affidavit fails to meet this standard since, *inter alia*, he avers that he is a self-employed chiropractor who presently earns a total monthly income, including social security benefits, of nine hundred twenty-eight dollars (\$928.00); he has approximately fourteen thousand

two hundred fifty dollars (\$14,250.00) in bank accounts; and he lives with his mother, to whom he does not pay rent. Plaintiff does not identify any monthly expenses for which he is responsible. Accordingly, plaintiff's application to proceed in forma pauperis is denied and plaintiff shall **pay the three hundred fifty dollar (\$350.00) filing fee within two (2) weeks of the date of this Order or this action will be dismissed.**

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: January 11, 2013
Central Islip, New York